

Appl. No. 10/834,975

Reply to Office Action of January 11, 2006

**REMARKS**

Claims 1-16 are pending in the application. These status of the application is as follows:

Claims / Section	35 U.S.C. Sec.	References / Notes
Drawings	Objection	Missing claimed features
Specification	Objection	Missing description of shielding capsule/plate material.
1-16	§112, ¶1, enablement	Non-enabled features
1-16	§112, ¶2, indefiniteness	Indefinite claim language
1 & 2	§102(b) Anticipation	<ul style="list-style-type: none"><li>• Wojcik, et al. (U.S. Patent No. 4,596,899).</li></ul>
3	§103(a) Obviousness	<ul style="list-style-type: none"><li>• Wojcik, et al. (U.S. Patent No. 4,596,899).</li></ul>
4-5 & 8-15	§103(a) Obviousness	<ul style="list-style-type: none"><li>• Wojcik, et al. (U.S. Patent No. 4,596,899); and</li><li>• Husung (U.S. Patent No. 6,466,679).</li></ul>

5 Applicants have provided new figures 4 and 5 illustrating various claimed features noted by the Examiner, and have amended the Specification to include a reference to these new figures. The New Drawing Sheet is attached as an Appendix to this Amendment.

Furthermore, Applicants have added the language of claim 3 to the  
10 Specification via the concurrently submitted Substitute Specification. Applicants note that MPEP §2163.08 permits:

15 ...information contained in any one of the specification, claims or drawings of the application as filed [to] be added to any other part of the application without introducing new matter.

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Applicants have amended claims 1, 2 and 6 to utilize language that is closer to the German language upon which these claims were based. The German language used was "die Antennenspule auf den Hörer oder das Mikrofon gewickelt ist", which had been translated as "wound around the receiver or the  
5 microphone", but is properly translated as, "wound on the receiver or microphone", and expresses that there is no separation or gap between the antenna and the receiver or microphone. This lack of separation or gap is supported in the originally filed application by Figure 1, clearly showing the antenna coil being wound on the earpiece.

10 Applicants have cancelled claim 15, and amended claim 16 to depend from claim 4.

No new matter has been added by these amendments.

Applicants' use of reference characters below is for illustrative purposes only and is not intended to be limiting in nature unless explicitly indicated.

15 **OBJECTION TO THE DRAWINGS**

*1. Applicants have added new Figures 4 and 5 illustrating the claimed features.*

In the OA, on pp. 2-3, the Examiner objected to the drawings as failing to show the features of claims 1, 2 and 6—namely, an "antenna coil wound around  
20 the microphone", and "the shield plate or capsule encompassing the receiver with a coil wound around it". Applicants have thereby added new Figures 4 and 5, which show the claimed features.

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Support for these additions can be found in paragraph [0023] and claim 1 of the originally filed application. Applicants have amended paragraph [0023], in accordance with MPEP §2163.06 to include that the antenna can be wound around or on the receiver or earpiece.

5 Applicants further note that element 23 of Figure 3 in the originally filed application provides a disclosure in the drawings for the subject matter of the compensator of claims 15 and 16.

Applicants assert that no new matter has been added to the application by these amendments, and respectfully request that the objection to the drawings be  
10 withdrawn.

#### OBJECTION TO THE SPECIFICATION

*2. Applicants have added the language taught by claim 3 to the Specification—no new matter has been added by the amendment.*

In the OA, on p. 3, the Examiner objected to the Specification as failing to  
15 teach the subject matter of claim 3. Therefore, in accordance with MPEP §2163.06, the Specification has been amended (paragraph [0023]) to include the subject matter claimed in claim 3.

Since the Specification now supports the subject matter of claim 3, the Applicants respectfully request that the objection to the Specification be  
20 withdrawn.

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**35 U.S.C. §112, FIRST PARAGRAPH, NON-ENABLEMENT OF CLAIMS 1-16**

*3. The amendments to claims 1, 2 and 6 that the antenna coil is wound on the microphone (and receiver) and receiver are enabled by the Specification and drawings.*

5 In the OA on pp. 3-4, the Examiner rejected claims 1-16 as being non-enabled by the Specification. Claims 1, 2 and 6 have been amended to include language that the antenna is wound on the receiver and microphone respectively. This configuration is clearly described in paragraphs [0021] – [0023] and shown in Figure 1, in which a coil is wound on an earpiece 1 (but a winding on a  
10 microphone was supported in the originally filed application—see claim 1 and MPEP §2163.06).

The Examiner noted that the Specification fails to teach what effect or benefit the Applicant wants to achieve by winding the antenna coil around the microphone—however, a statement of effect or benefit is not an essential  
15 element of enablement. The criteria for enablement is that the disclosure contain enough information to enable one of ordinary skill in the art to practice the invention—Applicants respectfully assert that there is a sufficient teaching in the Specification to enable one of ordinary skill in the art to practice the invention. Applicants note that there is a strong presumption that an adequate written  
20 description of the claimed invention is present in the specification as filed (see MPEP §2163(II)(A)).

Although arguments may have been made in the previous Response as to benefits or features of the claimed invention, it is not essential that such benefits or features be disclosed in the Specification in order to enable the claims.

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*4. The Specification clearly enables the use of a shield plate for the receiver/microphone, as taught by claims 1, 2 and 6..*

In the OA, on p. 4, the Examiner indicated that the Specification fails to teach the coil is able to wind around the shield plate. Applicant has amended  
5 claims 1, 2 and 6 to indicate that the coil is wound on the respective element, which clarifies its relationship to the element with which the coil is associated. Teaching of the various configurations of the coil with respect to the shield plate can be found at paragraphs [0015] and [0021].

*5. The Specification has been amended to include the limitations of claim*  
10 3.

In the OA, on p. 4, the Examiner rejected claim 3 as not having the specification enable the material composition of the shield capsule of claim 3. The materials as claimed in originally filed claim 3 have been added to the Specification, as permitted by MPEP §2163.06. One of ordinary skill in the art  
15 would understand how to make the shielding capsule out of the ferrite material, mu-metal, or iron sheet, as claimed in claim 3.

*6. Claim 15 has been cancelled, and claim 16 has been amended to depend from claim 4 to address the enablement rejection by the Examiner.*

Applicants have cancelled claim 15 and amended claim 16 to depend from  
20 claim 4 to address the enablement rejection by the Examiner. The Specification clearly teaches a compensator 23 in Figure 3 and the appertaining description in the Specification, as now claimed in claims 4 and 16.

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For these reasons, the Applicants assert that, based on the amendments and above arguments, the claims of the application are now fully enabled.

**35 U.S.C. §112, SECOND PARAGRAPH, NON-ENABLEMENT OF CLAIMS 1-16**

7. *Claims 1-16 do not require the antenna coil to interact with the signal path such that it receives the processed signal from the processor, but rather requires that the coil is configured to implement the wireless transmission of data.*

In the OA, on p. 4, the Examiner rejected claims 1-16 under 35 U.S.C. §112, second paragraph, because it is not understood how the antenna coil wound around the microphone interacts with the signal path such that it receives the processed signal from the processor. The Applicants note that the claim language under the sole independent claim of the application, claim 1, does not require that the microphone interact with the signal path such that it receives the processed signal from the processor—the claim language requires that the antenna coil be configured to implement the wireless transmission of data. Paragraph [0022] of the originally filed Specification illustrates this aspect of the invention. Although the language used is broad, there is no ambiguity about what it covers. As stated in paragraph [0022] states:

the antenna coil 4 can be used both to send as well as receive an electromagnetic signal.... Two functions can thus simultaneously be achieved via the antenna coil 4: on the one hand, the antenna coil 4 can, as cited previously, be used as a send and/or receiving coil, and on the other hand, it can also supply a signal derived from the earpiece input signal, such that an electromagnetic signal (emitted by the earpiece 1 in spite of the electromagnetic shielding of the earpiece by the hearing aid housing) is largely compensated and the antenna signal is influenced as little as possible.

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Thus, claim 1 is not indefinite as to what it covers.

*8. Claim 2 has been amended to clarify the structural relationship of the shield and plate respectively.*

In the OA, on p. 5, the Examiner indicated that it was not understood how  
5 the shield plate of claims 2 and 6 could enclose the receiver/microphone. These claims have been amended to include the language that the shield plate shields, while the capsule encloses. That a shield plate would shield is inherently known from the term itself.

Applicants assert that this language clarifies the structural relationship of  
10 the shield plate.

*9. Claim 15 has been cancelled and claim 16 amended to depend from claim 4.*

Applicants have cancelled claim 15 and amended claim 16 to depend from claim 4, thereby eliminating the confusing language pertaining to the  
15 compensator and the electronic compensator.

For these reasons, the Applicants assert that the claims of the present application are enabled and definite, and therefore respectfully requests that the Examiner withdraw the 35 U.S.C. §112 rejection from the application.

**35 U.S.C. §102(b), CLAIMS 1-2 ANTICIPATION BY WOJCIK**

20 *10. Wojcik fails to teach or suggest the element of claim 1 that an antenna coil is wound on the earpiece or the microphone.*

In the OA, on p. 5, the Examiner cited the reference of Wojcik as teaching a hearing device having, among other things, "an antenna coil (50) that is wound

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around the receiver of the microphone" configured to implement the wireless transmission of data.

Applicants have amended independent claim 1 so that the coil is now wound on the microphone or earpiece. As now claimed, and as shown in Figure 1, Wojcik fails to teach or suggest a coil that is wound on the microphone or earpiece. The coil 50 in Wojcik is clearly physically spaced with a relatively large separation from the receiver/microphone. Therefore, Wojcik fails to teach this element of claim 1.

Based on the amended claim language, the Applicants assert that Wojcik does not anticipate the sole independent claim of the application, nor does it teach or suggest the coil being wound on the microphone or earpiece and respectfully request that the 35 U.S.C. §102 rejection be withdrawn from the application.

**35 U.S.C. §103(a), CLAIMS 3-16 OBVIOUSNESS OVER WOJCİK IN VIEW OF HUSUNG**  
11. Applicants rely upon the arguments made above and in the previous Response related to the Husung reference and assert the nonobviousness of claims 3-16 over the combination of references.

The Examiner rejected claims 3-16 based on some combination of the Wojcik and Husung references. Applicants state that the addition of Husung to the Wojcik does not make the combination teach or suggest the element of the coil being wound on the microphone or earpiece, and therefore independent claim 1 and all other claims in the application, are not suggested by the combination of references.



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For these reasons, the Applicant asserts that the amended claim language clearly distinguishes over the prior art, and respectfully request that the Examiner withdraw the §103(e) rejection from the present application.

#### CONCLUSION

5 Pursuant to 37 CFR 1.125 (b), applicants have concurrently submitted a substitute specification, excluding the claims, and provided a marked-up copy. All of the changes are editorial and applicant believes no new matter is added thereby.

10 Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been satisfied, it is respectfully requested that the present application be reconsidered, the rejections be withdrawn and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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#### CERTIFICATE OF FACSIMILE

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Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on June 12, 2006.

  
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**APPENDIX  
DRAWING ADDITIONS**

**APPENDIX**

**AMENDMENT B**